IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 3383 of 2002

For Approval and Signature:

HON'BLE MR.JUSTICE K.S.JHAVERI

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the concerned Magistrate/Magistrates,Judge/Judges,Tribunal/Tribunals? : NO

HARIBHAI BAMBHANIYA

Versus

DISTRICT DEVELOPMENT OFFICER

Appearance:

1. Special Civil Application No. 3383 of 2002

MR JV JAPEE for Petitioner No. 1-8

MR HS MUNSHAW for Respondent No. 1

MR PRADIP BHATE A.G.P. for Respondent No. 2

CORAM : HON'BLE MR.JUSTICE K.S.JHAVERI

Date of decision: 02/08/2004

ORAL JUDGEMENT

1.0. The petitioners by way of this petition has prayed that respondents be directed to grant benefits of

the Government Resolution dated 18th August, 1999, at annexure-C to the petition.

2.0. The short facts of the case as they emerge from the record of the petition are that the petitioners were initially appointed as daily wagers in various departments and they are working with the respondents since the year 1980 to 1987, as per annexure-A to the petition. It is the case of the petitioners that pursuant to the Government Resolution dated 17th October, 1988, they were granted the benefits, on condition that they would withdraw the Reference pending for regularization. In view of that the Reference was withdrawn by the petitioners before the Labour Court. The grievance of the petitioners is that subsequently, the benefits were withdrawn by order dated 17th November, 1997 without hearing the petitioners.

2.1. Being aggrieved by the order dated 17th November, 1997, the petitioners have approached this Court by filing Special Civil Application No. 8595 of 1997. This Court [Coram : Miss R.M. Doshit, J.] vide order dated 20th September, 1999 disposed of the petition and quashed and set aside the impugned order dated 17th November, 1997. On that ground, the petitioners are now continued to be covered under the Government Resolution dated 17th October, 1988.

2.2. The petitioner further states that in view of the Resolution passed by the Finance Department vide order dated 7th January, 1998 revising the payscales of the State Government employees, the petitioner made a representation to extend the said benefits to the daily wagers. The State Government in view of the said representation, extended the benefits of revised payscales to the daily wagers. The benefits of the revision of pay scale was granted w.e.f. 1st January, 1998. The petitioner further states that though the Government Resolution dated 18th August, 1999, extending the benefits of revised payscales to the daily wagers is applicable, the respondents have not granted the benefits of the said Resolution. The petitioner further submitted that the as per the requirement of the aforesaid Government Resolution all the petitioners are getting the benefits of the Government Resolution dated 17th October, 1981 and, therefore, the petitioners are eligible to get the benefits of the aforesaid Government Resolution dated 18th August, 1999. Hence, this petition.

2.3. It is the case of the respondents that in view of the audit objections, the benefits were withdrawn.

However, this Court on that count, vide order dated 20th September, 1999 directed the respondents to cancel the benefits after giving the opportunity to the petitioners. The respondents further contended that till the issue whether the petitioners were eligible to get the benefits under the Government Resolution dated 17th October, 1988 is decided, the petitioners cannot get the benefits of the Government Resolution dated 18th August, 1999.

3.0. I have heard learned advocates for both the respective parties. Looking to the facts narrated hereinabove, I am of the opinion that ends of justice would be met if the following direction is issued.

3.1. The respondents are, therefore, directed to decide the issue whether the petitioners are eligible to get benefits of the Government Resolution dated 17th October, 1988 as directed by this Court in Special Civil Application No. 8595 of 1997, within a period of four weeks from today and if, ultimately the petitioners are found eligible for the benefits under the Government Resolution dated 17th October, 1988, than their case will be considered as per the Government Resolution dated 18th August, 1999.

3.2. In the result, the petition is partly allowed. Rule is made absolute to the aforesaid extent with no order as to costs.

[K.S. JHAVERI, J.]

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